

Remarks in Support of Patentability

Applicant respectfully submits that with the amendments made to the claims herein, the addition of a new claim and submission of the accompanying terminal disclaimer, this application will be found to be in form for allowance by the examiner. Notification thereof is respectfully solicited.

Regarding the outstanding official action, applicant regrets that the information disclosure statement filed 14 July 2003 failed to include the 1449 Form. A complete copy of the 14 July 2003 information disclosure statement is enclosed herewith. Consideration of that information disclosure statement on its merits is respectfully solicited.

Applicant notes with appreciation the approval of the drawing corrections made by the examiner.

Applicant has cancelled claims 54 through 58 from the application as being directed to an invention which was not elected but with traverse. Applicant respectfully submits that this cancellation is without prejudice to applicant's right to solicit these claims in a divisional application including but not limited to pending divisional application serial number 10/191,976.

Applicant has amended the disclosure to correct the informalities helpfully noted by the examiner in paragraph 5 of the official action.

Applicant has amended the claims in an effort to obviate the rejections of the claims made under 35 USC 112 and the objection to claim 22 as lacking punctuation.

Applicant specifically apologizes to the examiner in that upon review of the claims as previously amended it appears that some of the amendments applicant's

undersigned counsel endeavored to make to the claims were misinterpreted by the clerical staff in applicant's undersigned counsel's office, with material being stricken from the claims which should have been retained in the claims. Applicant's counsel believes this was due to unfamiliarity with the relatively new format for amending claims as prescribed by the United States Patent and Trademark Office. Applicant's attorney again expresses regret over any inconvenience or aggravation caused to the examiner by this.

Claim 6 has been amended to provide antecedent basis for the term "said upwardly extending surfaces" and to define the structural cooperation between the upwardly extending surfaces and the housing. These amendments are made in response to the examiner's comments appearing in the first paragraph on page 3 of the official action.

Claim 7 has been similarly amended to provide antecedent basis for the phrase "said upwardly extending surfaces" and to more specifically define the structural cooperation between the upwardly extending surfaces and the housing, in accordance with the examiner's comment in the second full paragraph on page 3 of the official action.

Claim 12 has been amended to provide antecedent basis for the "valve".

Claim 14 has been similarly amended.

Claim 16 has been amended to correct "housing" to "hopper".

Claims 44, 45 and 46 have been amended to obviate the antecedent basis problem and to make the claims more straightforward.

Respecting the double patenting rejections, applicant traverses both the statutory double patenting rejection and the obviousness-type double patenting rejection and requests reconsideration of the claims which have been rejected on these bases.

Without prejudice the foregoing traverse and in an effort to move this application forward towards allowance, the claims which had been rejected based on alleged statutory double patenting, namely claims 36 through 38 and 41, have been amended to obviate that rejection. Applicant respectfully submits that when the examiner considers amended claims 36 through 38 and 41, the examiner will withdraw the statutory double patenting rejection. Applicant further respectfully submits that these claims are now clearly distinguishable from claims 28, 29, 30, 50 and 51 of U.S. patent 6,467,943 on which the statutory double patenting rejection was based. Accordingly, reconsideration and withdrawal of the statutory double patenting rejection is respectfully solicited.

Applicant traverses the obviousness type double patenting rejections based on U.S. patent 6,467,943 and based on the combination of that patent with the photographs of the Una-Dyn gravimetric blender as previously submitted by applicant. There is submitted herewith a terminal disclaimer respecting U.S. patent 6,467,943. Reconsideration of the double patenting rejection and withdrawal of the same is respectfully solicited in view of submission of the terminal disclaimer.

Applicant notes with appreciation the stated allowability of claims 2, 8, 9, 10, 11, 13, 15 and 30 through 35.

Applicant respectfully submits that claims 1, 3, 4, 5 and 42 through 53 are now allowable in light of the submission of the terminal disclaimer. Applicant further submits

that claims 6, 7, 12, 14, 16 through 29 and 44 through 53 are allowable in light of their amendment to obviate the rejection under 35 USC 112.

Applicant has submitted a new claim 59 which applicant believes claims the invention in even more concise and precise terminology than has been submitted heretofore. Careful consideration, examination and allowance of new claim 59 is respectfully solicited.

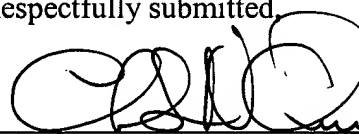
Claims 54 through 58 have been cancelled as being withdrawn from consideration.

Applicant respectfully solicits further prosecution of the application in light of the request for continued prosecution as submitted herewith and, upon such prosecution and examination of the application, notification that all claims pending in the application are now allowable.

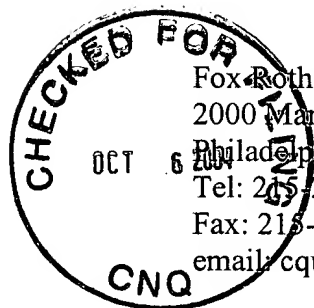
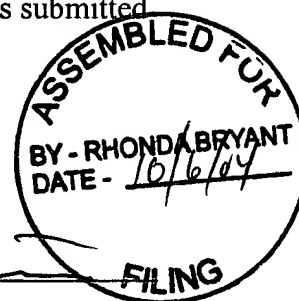
To the extent there is any fee is required in connection with the receipt, acceptance and/or consideration of this paper and/or any accompanying papers submitted herewith, please charge all such fees to Deposit Account 50-1943.

Respectfully submitted,

Date: 6 October 2004



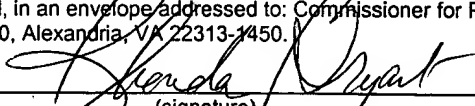
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UNDER 37 C.F.R. 1.8(a)

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(signature)
BY: RHONDA BRYANT
DATE: OCTOBER 6, 2004